

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
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Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Cloverdale, Montgomery)
and Warrior, Alabama))

MM Docket No. 94-78
RM-8472
RM-8718^{1/}

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

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REPLY COMMENTS

North Jefferson Broadcasting Company, Inc. ("WLBI"), licensee of Station WLBI(FM), Warrior, Alabama,^{2/} and Deep South Broadcasting Company ("WBAM"), licensee of Station WBAM-FM, Montgomery, Alabama (hereinafter referred to as "WLBI/WBAM"), jointly, by their counsel, hereby submit their reply to the Public Notice issued on October 20, 1995. The purpose of this reply pleading is to update the record in this

^{1/} The Commission's data base lists this proposal under RM-8525. The RM-8718 listing was obtained from the Commission's Public Notice of October 20, 1995.

^{2/} On September 29, 1995, North Jefferson Broadcasting Company, Inc., filed an application on Form 314 seeking Commission consent to assign the license of WLBI to North South Broadcasting Company, L.L.C. (BAPLH-950929GJ). See Public Notice of October 17, 1995, Report No. 23614, Mimeo 60201.

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proceeding to report certain recent filings affecting Station WLBI. In support hereof, WLBI/WBAM state as follows:

1. On October 20, 1995, the Commission issued a Public Notice announcing the acceptance of the counterproposal filed by WLBI/WBAM in this proceeding and setting a 15-day period for other parties to this proceeding to submit a reply. As indicated in note 2, WLBI recently filed an application on September 29, 1995, seeking to assign its license to a new entity named North South Broadcasting Company, L.L.C., of which North Jefferson Broadcasting Company, Inc., the assignor, will retain a 50% interest in the new licensee. Undersigned counsel is hereby authorized by WLBI and WBAM as principals of the assignee to state that both principals and the assignee, North South Broadcasting Company, L.L.C., affirm a continuing interest in the proposed substitution of Channel 254C1 for Channel 254C3 at Warrior, and will file a Form 301 application upon grant of this rule making proposal and construct the upgraded facilities.

2. WLBI also reports that, on October 16, 1995, it filed an application on Form 301 seeking a one-step upgrade of Station WLBI to Class C2 facilities. To accommodate that application, WBAM filed a downgrade application of Station WBAM(FM) to Class C2. These applications were intended as an interim step to obtain an improvement in WLBI's coverage area in the event that there should be a delay in Commission approval of WLBI's modification of license to a Class C1 station in this

proceeding. Should the Commission act expeditiously to resolve this proceeding to allot Channel 254C1 to Warrior, WLBI will amend its pending Class C2 application to specify Class C1 facilities or, if necessary, file a new application for a Class C1 station.

3. Although WBAM has filed an application to downgrade its station to Class C2, this filing is an accommodation to permit WLBI to file its application for Class C2 facilities while awaiting the outcome of the instant rule making. WBAM wishes to emphasize that it prefers to have Channel 255 redesignated as a Class C1 at Montgomery rather than as a Class C2. WBAM will file an application consistent with the Commission's technical rules for Class C1 facilities should the Commission approve the WLBI/WBAM counterproposal.

OTHER FILINGS

4. The Notice of Proposed Rule Making, 9 FCC Rcd 3311 (1994), proposed the allotment of Channel 254A to Cloverdale, Alabama, contingent upon an adequate showing of community status and the filing of a license application for Station WZLQ(FM), Tupelo, Mississippi, at the site specified in its outstanding construction permit (BPH-930812IB). That permit expired on September 24, 1995. A recent check of the Commission's records indicates that WZLQ failed to file either a license application or an extension of time application by the expiration date. Therefore, the condition that the Tupelo station file a license

application has not been met. As a result, the Cloverdale petition and the three other counterproposals filed in this proceeding, (1) Channel 254A to Crump, Tennessee, (2) Channel 254A to Florence, Alabama, and (3) Channel 254A to Saint Florian, Alabama, were not accepted due to reliance on the Tupelo site relocation.^{3/}

Accordingly, the allotment of Channel 254C1 to Warrior, Alabama, and 255C1 to Montgomery, Alabama, is the only remaining proposal presently before the Commission. Since both parties have reaffirmed their interest in these proposals by this reply, WLBI/WBAM urge the Commission to grant their joint counterproposal as expeditiously as possible.

Respectfully submitted,

**NORTH JEFFERSON BROADCASTING COMPANY, INC.
DEEP SOUTH BROADCASTING COMPANY**

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November 6, 1995

^{3/} In addition, we note that the Florence proposal failed to provide 100% city grade coverage in violation of Section 73.315(a) which is generally not waived in rule making proceedings. See Greenwood, South Carolina, 2 FCC Rcd 3583 (1987); review denied 3 FCC Rcd 4108 (1988).

CERTIFICATE OF SERVICE

I, Veronica Abarre, a secretary in the law firm of Mullin, Rhyne, Emmons and Topel, P.C., hereby certify that I have, on this 6th day of November, 1995, sent by first-class U.S. Mail, postage prepaid, copies of the foregoing "REPLY COMMENTS" to the following:

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